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| In re Application of | : | DECISION |
| LIGHT et al. | : | |
| Application No.: 09/582,492 | : | |
| PCT No.: PCT/US99/25109 | : | |
| Int. Filing Date: 26 October 1999 | : | |
| Priority Date: 26 October 1998 | : | |
| Attorney Docket No.: 142/003/PCT | : | |
| For: DETECTION OF HUMAN PAPILLOMA | : | |
| VIRUS IN PAPANICOLAOU (Pap) SMEARS | : | |

This is a decision on applicants' "PETITION FOR REVIVAL OF AN APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" and "PETITION UNDER 37 C.F.R. § 1.182 FOR QUESTIONS NOT SPECIFICALLY PROVIDED FOR", both of which were submitted 06 March 2002.

BACKGROUND

On 26 June 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, a Transmittal Letter for entry into the national stage of the United States, the U.S. Basic National Fee, a statement claiming small entity status, and a declaration of the inventors. The transmittal letter requested that the application papers be processed as the national stage application of international application PCT/US99/23815. The declaration identified the application being executed as international application number PCT/US99/25109 filed 06 October 1999. (It is noted that international application number PCT/US99/25109 has an international filing date of 26 October 1999 rather than 06 October 1999.)

On 20 April 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) as well as the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. An attached NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) indicated that the declaration of inventors filed 26 June 2000 did not identify the application to which it was directed and also indicated that "none of the information sent in for the above serial number match [sic] the PCT number listed on the applicant's transmittal letter". A two-month extendable period for reply was set.

On 15 August 2001, applicants submitted a facsimile transmission for the above-identified application including, *inter alia*, a copy of a NOTIFICATION from the Office of PCT Legal Administration for international application number PCT/US99/25109 mailed 26 July 2001, and a copy of a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" purportedly filed 21 May 2001.

On 24 September 2001, applicants filed a response to the NOTIFICATION OF MISSING REQUIREMENTS mailed 20 April 2001 which was accompanied by, *inter alia*, a declaration of inventors, a petition for a three month extension of time, and an authorization to charge the fee for a three month extension of time to Deposit Account No. 50-0861.

On 10 December 2001, the USPTO mailed a Notification indicating that the application was abandoned because neither the submission filed via facsimile transmission on 15 August 2001 nor the response filed 24 September 2001 was a proper response to the NOTIFICATION OF MISSING REQUIREMENTS mailed 20 April 2001 and that the identification of an incorrect international application number in a transmittal letter for entry into the national stage in the United States may be corrected by a petition under 37 CFR 1.182.

On 01 May 2002, the USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/905) indicating that the above-identified application was abandoned.

On 06 March 2002, applicants filed a submission which included, *inter alia*, "PETITION FOR REVIVAL OF AN APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)", "PETITION UNDER 37 C.F.R. § 1.182 FOR QUESTIONS NOT SPECIFICALLY PROVIDED FOR", a petition/fee for a five month extension of time, and a declaration of the inventors.

DISCUSSION

Petition Under 37 CFR 1.137(b)

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicants submitted the basic national fee on 26 June 2000.

As to item (2), applicants submitted the petition fee on 06 March 2002.

With regard to item (3), petitioner has provided the required statement.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration filed 06 March 2002 complies with 37 CFR 1.497(a)-(b).

Petition Under 37 CFR 1.182

This is a decision on applicants' "PETITION UNDER 37 C.F.R. §1.182" filed on 06 March 2002. The petition fee of \$130.00 has been paid. The petition is **GRANTED** as discussed below.

On 26 June 2000, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee. The transmittal letter requested that the application papers be processed as the national stage application of international application PCT/US99/23815.

A review of the application file including counsel's statements in the present petition, as well as a review of the USPTO file for PCT/US99/25109, reveals that the indication of international application PCT/US99/23815 was incorrect, and that the present application should in fact be the national stage application of international application PCT/US99/25109.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

The petition under 37 CFR 1.182 is **GRANTED** for the reasons set forth above.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according the application a 35 U.S.C. 371(c) date of **06 March 2002**.



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